

*10/1/93*

DELTA PROTECTION COMMISSION  
P.O. Box 530  
Walnut Grove, Ca 95690

September 30, 1993

TO: DELTA PROTECTION COMMISSION  
FROM: MARGIT ARAMBURU, EXECUTIVE DIRECTOR  
SUBJECT: RECOMMENDATIONS ON FEES FOR FILING OF APPEALS

Background

At the last Commission meeting, the Commission held a public hearing on the proposed regulations on appeals. At that time, the Commissioners raised the issue of filing fees associated with appeals to the Commission. Currently no fees are proposed. The issue was referred to the Subcommittee on Budget and Finance. The Subcommittee discussed this issue at its meeting on September 23, 1993.

At least two other state agencies have appeal authority. The San Francisco Bay Conservation and Development Commission has appeal authority in portions of the Suisun Marsh in Solano County. No fee is required to appeal a matter to the Commission. Since 1979, BCDC has had only about half a dozen appeals.

The California Coastal Commission also has appeal authority. The Commission does not require an appeal fee. Out of 12,120 total permits issued since 1980, 243 have been appealed to the Commission. For three-quarters of these permits, the Commission determined there was no substantive issue.

In the last legislative session, new legislation was approved as a result of large numbers of frivolous appeals being filed in one geographical area. The legislation allows the Executive Director to determine if an appeal is frivolous. If so, a \$300 appeal fee is required to continue review of the appeal. If the Commission determines the appeal is not frivolous, the fee is returned.

Subcommittee Recommendation

The Subcommittee believes that a filing fee should be required and that the fee should help offset the cost of staff time associated with researching the appeal and making a recommendation to the Commission. Based on costs of estimated staff time (including Attorney General staff time), the Subcommittee recommended a nonrefundable filing fee of \$1,500.

### Staff Recommendation

Staff recommends that the Commission proceed in one of the following ways:

1. If the Commission wants to charge an appeal fee, that final consideration of the regulations be postponed and that an additional public hearing be scheduled for the next meeting to receive public comment on the appropriateness of an appeal fee and the amount of such a fee.
2. If the Commission wants to proceed with adoption of the regulations, that staff be directed to keep thorough records of time spent on any appeals filed with the Commission in the six months to one year. At that later date, the Commission can consider adoption of an appeal fee and the amount of that fee.